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September 14, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
Washington, D.C. 20554

Re: Special Access Services, CC Docket No. 96-98; /
Cable & Wireless USA, Inc. v. Verizon Delaware, Inc. et al., EB-01-MD-022

Dear Ms. Salas:

In response to the Commission staff's request, Cable & Wireless USA, Inc. ("Cable & Wireless"), through its attorneys, submits for inclusion in CC Docket 96-98 the attached handout previously provided to Commission staff.

On August 2, 2001, Audrey Wright from Cable & Wireless and Steven Augustino from Kelley Drye & Warren met with Michelle Carey, Bill Dever, Kathy Farroba, Jonathan Reel, Renee Crittendon, Ben Childers, and Uzoma Onyeije, each of the Common Carrier Bureau, to discuss difficulties interexchange carriers, such as Cable & Wireless, experienced obtaining special access services from incumbent local exchange carriers. During this meeting, Cable & Wireless used the enclosed document for illustrative purposes.

Since the meeting, Cable & Wireless has filed a formal complaint against Verizon regarding Verizon's provisioning of special access services. Therefore, Cable & Wireless also submits three copies of this document for filing as part of the record in *Cable & Wireless USA, Inc. v. Verizon Delaware, Inc. et al.*, EB-01-MD-022.

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KELLEY DRYE & WARREN LLP

Ms. Magalie Roman Salas
Secretary
September 14, 2001
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Thank you for your assistance. Please contact the undersigned if you have any questions regarding this filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer M. Kashatus".

Steven A. Augustino, (202) 955-9608
Jennifer M. Kashatus, (202) 887-1234

cc: Renee Crittendon (via facsimile)
Alexander Starr
Christopher Olsen
Joseph Scavetta
Marie Breslin (via facsimile)

Cable & Wireless Informal Complaint Against Verizon

<i>Relevant Statutory Provision</i>	<i>C&W Position</i>	<i>Verizon's Response</i>
<p><i>Tariff Violation:</i></p> <p>Section 203: Every common carrier shall abide by the terms and conditions established in its tariffs.</p>	<p>Verizon violates the terms of its tariff by failing to provide special access services within the 9-day and 20-day standard intervals and by the Firm Order Commitment (FOC) date.</p>	<p>Verizon is not required to provision special access services within any specified interval. The intervals referred to in the tariff represent the minimum number of days Verizon requires to provision special access services.</p>
<p><i>Unjust and Unreasonable Practice:</i></p> <p>Section 201(b): Charges, practices, classifications, and regulations for and in connection with communications services shall be just and reasonable.</p>	<p>Verizon repeatedly fails to provision special access service to C&W by the FOC date and within the standard intervals. Moreover, although Verizon is required to conduct a facilities check prior to issuing a FOC, a substantial number of installation appointment are missed due to facilities not being available. These practices are unjust and unreasonable in violation of section 201(b) of the Act.</p>	<p>Verizon has no legal obligation to provision special access services by the FOC date. The FOC date is not a commitment, but an estimate. The actual due date depends on the availability of necessary facilities.</p>
<p><i>Discriminatory Conduct:</i></p> <p>Section 201(b): (same as above)</p> <p>Section 202(a): Prohibits unjust or unreasonable discrimination for or in connection with "like" communications services.</p> <p>Section 251(g): Requires LECs to provide exchange access and exchange services to IXC's in accordance with the equal access and nondiscrimination interconnection restrictions and obligations established under the MFJ.</p> <p>Section 272(c)(1): Prohibits BOCs from discriminating between their affiliate and any other entity in the provision or procurement of goods, facilities, and information.</p> <p>Section 272(e): Imposes specific nondiscrimination requirements pertaining to BOC provision of telephone exchange service and exchange access.</p>	<p>The data demonstrate that Verizon consistently provides better service to its own retail customers and to other carrier-customers than to Cable & Wireless. These discriminatory practices violate sections 201(b), 202(a), 251(g), 272(c)(1), and 272(e).</p>	<p>Special access services provided to end-users are not "like" the special access services provided to IXC's. Thus, Verizon's retail performance cannot be compared to its wholesale performance to demonstrate discriminatory provisioning.</p> <p>Moreover, when other factors—such as the number of orders coded customer not ready (CNR)—are taken into account, the data reveal C&W has received the same level of service as Verizon's retail end users.</p>